



General Assembly

Amendment

February Session, 2008

LCO No. 6442

HB0591006442HDO

Offered by:
REP. VILLANO, 91st Dist.

To: House Bill No. 5910

File No. 412

Cal. No. 242

***"AN ACT CONCERNING LEGISLATIVE OVERSIGHT OF THE
DEPARTMENT OF SOCIAL SERVICES."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2008*) For the fiscal year ending
4 June 30, 2009, and each fiscal year thereafter, for any new or expanded
5 initiative included in the appropriation to the Department of Social
6 Services in the annual report on the state budget prepared by the
7 Office of Fiscal Analysis, the Commissioner of Social Services shall
8 issue quarterly progress reports on the status of the implementation of
9 such initiatives to the joint standing committees of the General
10 Assembly having cognizance of matters relating to appropriations and
11 the budgets of state agencies and human services, and to the Office of
12 Fiscal Analysis, in accordance with section 11-4a of the general
13 statutes.

14 Sec. 2. Section 17b-10 of the general statutes is repealed and the
15 following is substituted in lieu thereof (*Effective July 1, 2008*):

16 (a) The Department of Social Services shall prepare and routinely
17 update state medical services and public assistance manuals. The
18 pages of such manuals shall be consecutively numbered and indexed,
19 containing all departmental policy regulations and substantive
20 procedure, written in clear and concise language. Said manuals shall
21 be published by the department and distributed so that they are
22 available to (1) all regional and subregional offices of the Department
23 of Social Services; (2) each town hall in the state; (3) all legal assistance
24 programs in the state; and (4) any interested member of the public who
25 requests a copy. All policy manuals of the department, as they exist on
26 May 23, 1984, including the supporting bulletins but not including
27 statements concerning only the internal management of the
28 department and not affecting private rights or procedures available to
29 the public, shall be construed to have been adopted as regulations in
30 accordance with the provisions of chapter 54. After May 23, 1984, any
31 policy issued by the department [, except a policy necessary to
32 conform to a requirement of a federal or joint federal and state
33 program administered by the department, including, but not limited
34 to, the state supplement program to the Supplemental Security Income
35 Program,] shall be adopted as a regulation in accordance with the
36 provisions of chapter 54, except as provided in subsection (b) of this
37 section.

38 (b) [The] (1) For the period commencing May 23, 1984, and ending
39 December 31, 2008, the department shall adopt as a regulation in
40 accordance with the provisions of chapter 54, any new policy
41 necessary to conform to a requirement of an approved federal waiver
42 application initiated in accordance with section 17b-8 of the 2008
43 supplement to the general statutes and any new policy necessary to
44 conform to a requirement of a federal or joint state and federal
45 program administered by the department, including, but not limited
46 to, the state supplement program to the Supplemental Security Income
47 Program, but the department may operate under such policy while it is
48 in the process of adopting the policy as a regulation, provided the
49 Department of Social Services prints notice of intent to adopt the

50 regulation in the Connecticut Law Journal within twenty days after
51 adopting the policy. Such policy shall be valid until the time final
52 regulations are effective.

53 [(c) On and after July 1, 2004, the] (2) The department shall submit
54 proposed regulations that are required by [subsection (b) of this
55 section] subdivision (1) of this subsection to the standing legislative
56 regulation review committee, as provided in subsection (b) of section
57 4-170, not later than one hundred eighty days after publication of the
58 notice of its intent to adopt regulations. The department shall include
59 with the proposed regulation a statement identifying [(1)] (A) the date
60 on which the proposed regulation became effective as a policy as
61 provided in [subsection (b) of this section] subdivision (1) of this
62 subsection, and [(2)] (B) any provisions of the proposed regulation that
63 are no longer in effect on the date of the submittal of the proposed
64 regulation, together with a list of all policies that the department has
65 operated under, as provided in [subsection (b) of this section]
66 subdivision (1) of this subsection, that superseded any provision of the
67 proposed regulation.

68 [(d)] (3) In lieu of submitting proposed regulations by the date
69 specified in [subsection (c) of this section] subdivision (2) of this
70 subsection, the department may submit to the legislative regulation
71 review committee a notice not later than thirty-five days before such
72 date that the department will not be able to submit the proposed
73 regulations on or before such date and shall include in such notice [(1)]
74 (A) the reasons why the department will not submit the proposed
75 regulations by such date, and [(2)] (B) the date by which the
76 department will submit the proposed regulations. The legislative
77 regulation review committee may require the department to appear
78 before the committee at a time prescribed by the committee to further
79 explain such reasons and to respond to any questions by the
80 committee about the policy. The legislative regulation review
81 committee may request the joint standing committee of the General
82 Assembly having cognizance of matters relating to human services to
83 review the department's policy, the department's reasons for not

84 submitting the proposed regulations by the date specified in
85 [subsection (c) of this section] subdivision (2) of this subsection and the
86 date by which the department will submit the proposed regulations.
87 Said joint standing committee may review the policy, such reasons and
88 such date, may schedule a hearing thereon and may make a
89 recommendation to the legislative regulation review committee.

90 (c) On and after January 1, 2009, the department shall not operate
91 under any new policy described in subsection (b) of this section until
92 such time as final regulations are approved by the legislative
93 regulation review committee and filed with the office of the Secretary
94 of the State in accordance with sections 4-170, as amended by this act,
95 and 4-172. Notwithstanding subsection (b) of this section and
96 subsection (f) of section 4-170, as amended by this act, the department
97 shall submit by January 1, 2009, in accordance with subsection (b) of
98 section 4-170, as amended by this act, to the legislative regulation
99 review committee any proposed regulations for any policies that it has
100 operated under pursuant to subsection (b) of this section prior to
101 January 1, 2009, but not yet adopted as regulations.

102 ~~[(e)]~~ (d) If amendments to an existing regulation are necessary solely
103 to conform the regulation to amendments to the general statutes, and if
104 the amendments to the regulation do not entail any discretion by the
105 department, the department may elect to comply with the
106 requirements of subsection (a) of section 4-168 of the 2008 supplement
107 to the general statutes or may proceed without prior notice or hearing.
108 Any such amendments to a regulation shall be submitted in the form
109 and manner prescribed in subsection (b) of section 4-170, as amended
110 by this act, to the Attorney General, as provided in section 4-169, and
111 to the committee, as provided in section 4-170, as amended by this act,
112 for approval and upon approval shall be filed in the office of the
113 Secretary of the State.

114 Sec. 3. Subsection (b) of section 4-170 of the general statutes is
115 repealed and the following is substituted in lieu thereof (*Effective July*
116 *1, 2008*):

117 (b) (1) No adoption, amendment or repeal of any regulation, except
118 a regulation issued pursuant to subsection (f) of section 4-168 of the
119 2008 supplement to the general statutes, shall be effective until (A) the
120 original of the proposed regulation approved by the Attorney General,
121 as provided in section 4-169, and eighteen copies thereof are submitted
122 to the standing legislative regulation review committee at the
123 designated office of the committee, in a manner designated by the
124 committee, by the agency proposing the regulation, (B) the regulation
125 is approved by the committee, at a regular meeting or a special
126 meeting called for the purpose, and (C) the regulation is filed in the
127 office of the Secretary of the State by the agency, as provided in section
128 4-172. (2) The date of submission for purposes of subsection (c) of this
129 section shall be the first Tuesday of each month. Any regulation
130 received by the committee on or before the first Tuesday of a month
131 shall be deemed to have been submitted on the first Tuesday of that
132 month. Any regulation submitted after the first Tuesday of a month
133 shall be deemed to be submitted on the first Tuesday of the next
134 succeeding month. (3) The form of proposed regulations which are
135 submitted to the committee shall be as follows: New language added
136 to an existing regulation shall be in capital letters or underlining, as
137 determined by the committee; language to be deleted shall be enclosed
138 in brackets and a new regulation or new section of a regulation shall be
139 preceded by the word "(NEW)" in capital letters. Each proposed
140 regulation shall have a statement of its purpose following the final
141 section of the regulation. (4) The committee may permit any proposed
142 regulation, including, but not limited to, a proposed regulation which
143 by reference incorporates in whole or in part, any other code, rule,
144 regulation, standard or specification, to be submitted in summary form
145 together with a statement of purpose for the proposed regulation. On
146 and after October 1, 1994, if the committee finds that a federal statute
147 requires, as a condition of the state exercising regulatory authority,
148 that a Connecticut regulation at all times must be identical to a federal
149 statute or regulation, then the committee may approve a Connecticut
150 regulation that by reference specifically incorporates future
151 amendments to such federal statute or regulation provided the agency

152 that proposed the Connecticut regulation shall submit for approval
153 amendments to such Connecticut regulations to the committee not
154 later than thirty days after the effective date of such amendment, and
155 provided further the committee may hold a public hearing on such
156 Connecticut amendments. (5) The agency shall prepare a fiscal note,
157 including an estimate of the cost or of the revenue impact on the state
158 and any municipality, and shall append a copy of the note to each
159 copy of the proposed regulation. At the time of submission to the
160 committee, the agency shall mail or submit a copy of the proposed
161 regulation and the fiscal note, prepared in accordance with subsection
162 (a) of section 4-168 of the 2008 supplement to the general statutes, to
163 (A) the Office of Fiscal Analysis which, within seven days of receipt,
164 shall submit an analysis of the fiscal note to the committee; and (B)
165 each joint standing committee of the General Assembly having
166 cognizance of the subject matter of the proposed regulation. No
167 regulation shall be found invalid due to the failure of an agency to
168 submit a copy of the proposed regulation and the fiscal note to each
169 committee of cognizance, provided such regulation and fiscal note has
170 been submitted to one such committee and the Department of Social
171 Services submits a copy of any of its proposed regulation and the fiscal
172 note to the joint standing committee of the General Assembly having
173 cognizance of matters relating to human services.

174 Sec. 4. Section 17b-238 of the general statutes is amended by adding
175 subsection (e) as follows (*Effective July 1, 2008*):

176 (NEW) (e) For the fiscal year ending June 30, 2009, and each fiscal
177 year thereafter, the Commissioner of Social Services shall issue
178 quarterly progress reports, in accordance with section 11-4a, to the
179 joint standing committees of the General Assembly having cognizance
180 of matters relating to appropriations and the budgets of state agencies
181 and human services, and to the Office of Fiscal Analysis on the
182 progress made toward finalizing hospital fee-for-service cost reports
183 for all years that have not been finalized.

184 Sec. 5. Subsection (a) of section 17b-297 of the 2008 supplement to

185 the general statutes is repealed and the following is substituted in lieu
186 thereof (*Effective July 1, 2008*):

187 (a) The commissioner, in consultation with the Children's Health
188 Council, the [Medicaid Managed Care Council] advisory council on
189 Medicaid managed care, established pursuant to section 17b-28 of the
190 2008 supplement to the general statutes, as amended by this act, and
191 the 2-1-1 Infoline program, shall develop mechanisms to increase
192 outreach and maximize enrollment of eligible children and adults in
193 the HUSKY Plan, Part A or Part B, including, but not limited to,
194 development of mail-in applications and appropriate outreach
195 materials through the Department of Revenue Services, the Labor
196 Department, the Department of Social Services, the Department of
197 Public Health, the Department of Children and Families and the Office
198 of Protection and Advocacy for Persons with Disabilities. Such
199 mechanisms shall seek to maximize federal funds where appropriate
200 for such outreach activities.

201 Sec. 6. Subsection (b) of section 17b-306a of the 2008 supplement to
202 the general statutes is repealed and the following is substituted in lieu
203 thereof (*Effective July 1, 2008*):

204 (b) Not later than July 1, 2008, and annually thereafter, the
205 Commissioner of Social Services shall report, in accordance with
206 section 11-4a, to the joint standing committees of the General
207 Assembly having cognizance of matters relating to human services,
208 public health and appropriations, and to the [Medicaid Managed Care
209 Council] advisory council on Medicaid managed care, established
210 pursuant to section 17b-28 of the 2008 supplement to the general
211 statutes, as amended by this act, on (1) the implementation of any
212 strategies developed pursuant to subsection (a) of this section, and (2)
213 the efficacy of such strategies in improving the delivery of and access
214 to health services for children enrolled in the HUSKY Plan.

215 Sec. 7. Subsection (d) of section 17b-99 of the 2008 supplement to the
216 general statutes is repealed and the following is substituted in lieu

217 thereof (*Effective July 1, 2008*):

218 (d) The Commissioner of Social Services, or any entity with whom
219 the commissioner contracts, for the purpose of conducting an audit of
220 a service provider that participates as provider of services in a
221 program operated or administered by the department pursuant to this
222 chapter or chapter 319t, 319v, 319y or 319ff, shall conduct any such
223 audit in accordance with the provisions of this subsection. For
224 purposes of this subsection "provider" means a person, public agency,
225 private agency or proprietary agency that is licensed, certified or
226 otherwise approved by the commissioner to supply services
227 authorized by the programs set forth in said chapters.

228 (1) Not less than thirty days prior to the commencement of any such
229 audit, the commissioner, or any entity with whom the commissioner
230 contracts to conduct an audit of a participating provider, shall provide
231 written notification of the audit to such provider, unless the
232 commissioner, or any entity with whom the commissioner contracts to
233 conduct an audit of a participating provider makes a good faith
234 determination that (A) the health or safety of a recipient of services is
235 at risk; or (B) the provider is engaging in vendor fraud.

236 (2) Any clerical error, including, but not limited to, recordkeeping,
237 typographical, scrivener's or computer error, discovered in a record or
238 document produced for any such audit, shall not of itself constitute a
239 wilful violation of program rules unless proof of intent to commit
240 fraud or otherwise violate program rules is established.

241 (3) A finding of overpayment or underpayment to a provider in a
242 program operated or administered by the department pursuant to this
243 chapter or chapter 319t, 319v, 319y or 319ff, shall not be based on
244 extrapolated projections unless there is a written finding that (A) there
245 is a sustained or high level of payment error involving the provider,
246 (B) documented educational intervention has failed to correct the level
247 of payment error, or (C) the value of the claims in aggregate exceeds
248 one hundred fifty thousand dollars on an annual basis.

249 (4) A provider, in complying with the requirements of any such
250 audit, shall be allowed not less than thirty days to provide
251 documentation in connection with any discrepancy discovered and
252 brought to the attention of such provider in the course of any such
253 audit.

254 (5) The commissioner, or any entity with whom the commissioner
255 contracts, for the purpose of conducting an audit of a provider of any
256 of the programs operated or administered by the department pursuant
257 to this chapter or chapter 319t, 319v, 319y or 319ff, shall produce a
258 preliminary written report concerning any audit conducted pursuant
259 to this subsection, and such preliminary report shall be provided to the
260 provider that was the subject of the audit, not more than sixty days
261 after the conclusion of such audit.

262 (6) The commissioner, or any entity with whom the commissioner
263 contracts, for the purpose of conducting an audit of a provider of any
264 of the programs operated or administered by the department pursuant
265 to this chapter or chapter 319t, 319v, 319y or 319ff, shall, following the
266 issuance of the preliminary report pursuant to subdivision (5) of this
267 subsection, hold an exit conference with any provider that was the
268 subject of any audit pursuant to this subsection for the purpose of
269 discussing the preliminary report.

270 (7) The commissioner, or any entity with which the commissioner
271 contracts, for the purpose of conducting an audit of a service provider,
272 shall produce a final written report concerning any audit conducted
273 pursuant to this subsection. Such final written report shall be provided
274 to the provider that was the subject of the audit not more than sixty
275 days after the date of the exit conference conducted pursuant to
276 subdivision (6) of this subsection, unless the commissioner, or any
277 entity with which the commissioner contracts, for the purpose of
278 conducting an audit of a service provider, agrees to a later date or
279 there are other referrals or investigations pending concerning the
280 provider.

281 (8) Any provider aggrieved by a decision contained in a final
 282 written report issued pursuant to subdivision (7) of this subsection,
 283 may, not later than thirty days after the receipt of the final report,
 284 request, in writing, a review on all items of aggrievement. Such request
 285 shall contain a detailed written description of each specific item of
 286 aggrievement. The [designee of] person designated by the
 287 commissioner [who presides] to preside over the review shall be
 288 impartial and shall not be an employee of the Department of Social
 289 Services Office of Quality Assurance or an employee of an entity with
 290 whom the commissioner contracts for the purpose of conducting an
 291 audit of a service provider. The designee of the commissioner shall
 292 issue a decision not later than thirty days after the conclusion of the
 293 review. Any provider aggrieved by a decision of the commissioner's
 294 designee who has been subject to an audit based on extrapolated
 295 projections under subparagraph (C) of subdivision (3) of this
 296 subsection may request a fair hearing in accordance with the
 297 provisions of sections 17b-60 and 17b-61.

298 (9) The provisions of this subsection shall not apply to any audit
 299 conducted by the Medicaid Fraud Control Unit established within the
 300 Office of the Chief State's Attorney."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	New section
Sec. 2	<i>July 1, 2008</i>	17b-10
Sec. 3	<i>July 1, 2008</i>	4-170(b)
Sec. 4	<i>July 1, 2008</i>	17b-238
Sec. 5	<i>July 1, 2008</i>	17b-297(a)
Sec. 6	<i>July 1, 2008</i>	17b-306a(b)
Sec. 7	<i>July 1, 2008</i>	17b-99(d)